DELEGATE CORN: I'd like to make an amendment to that.

DELEGATE BALDWIN: It hasn't been seconded as yet. We're trying to find out whether there is a need for clarification.

DELEGATE SIMMONS: Second.

DELEGATE BALDWIN: It has been moved and properly seconded that II-B be adopted. Delegate Corn, you may present your amendment.

DELEGATE CORN: I'm not exactly sure of the wording, but the idea is that--let's say, for instance, under the legislative report there is a minority report. And among the six things in the minority report they want to amend section three. Okay, then, as soon as the committee chair says, "I move for the adoption of section three as amended and somebody seconds it," it is automatically the person who presented the minority report who may make the first chance to amend by reading their proposal.

DELEGATE BALDWIN: Yes.

DELEGATE CORN: I'd like you to put that in here. I am not sure exactly how to word it.

DELEGATE BALDWIN: We asked about clarification, and everyone understood that as such, just what you are saying.

DELEGATE CORN: That isn't what it says.

DELEGATE BALDWIN: It does say that. So, we aren't going to argue whether that--it states that. And you would deal with an amended proposal, the same as you would an amended motion. Naturally there must be something on the floor before you can attempt to amend.

DELEGATE CORN: No, no, the idea is that the substitute motion has the first opportunity for amendment as opposed to anybody else.

DELEGATE BALDWIN: The substitute proposal, you mean. There is a difference between a substitute proposal and a substitute motion.

DELEGATE CORN: The minority report proposed amendment would have the first right before anybody else in the body to propose the amendment. That isn't what it says here. And, therefore, I would make the amendment, a motion to amend: shall be made initially when the committee section is on the floor for adoption.

DELEGATE BALDWIN: I think it means just what it says and just what you're implying. And your motion to amend is in order. And if it gets a second, we'll put it on the floor.

DELEGATE ROTHSCHILD: Second.

DELEGATE BALDWIN: So, will you state your amended section.

DELEGATE CORN: Okay. If the minority proposal is to amend a section or sections of the committee's proposal, a motion to amend shall be in order immediately when the committee section is on the floor for adoption.

DELEGATE BALDWIN: Would you read it again, please, so everyone understands your amended motion.

DELEGATE CORN: That means the minority report has the first shot.

DELEGATE BALDWIN: Would you read it, Delegate Corn, again so everyone will understand your motion.

DELEGATE CORN: If the minority proposal is to amend a section or sections of the committee's proposal, a motion to amend shall be in order immediately--a motion to amend by the minority report shall be--a motion to amend by the minority report shall be in order immediately when the committee section is on the floor for adoption.

DELEGATE BALDWIN: You have heard the amended section. What is your pleasure?

DELEGATE CORN: I move the previous question.

DELEGATE BALDWIN: It has been moved. Those in favor--do you want to speak to the amended proposal?

DELEGATE EICHHORN: Yes. I'd like to suggest a change in the language that I think meets Delegate Corn's meaning and another concern that I have.

DELEGATE BALDWIN: Our rules don't allow to amend the amended section of a motion. What you're saying, you want to amend her amendment.

DELEGATE EICHHORN: I have a substitute to her amendment.

DELEGATE BALDWIN: Okay, let's hear your substitute.

DELEGATE EICHHORN: If the minority proposal is to amend a section or sections of the committee's proposal, a motion to amend shall be the order of business following the committee's motion and presentation of that section.

DELEGATE BALDWIN: It has to be germane. I don't quite understand shall be the order of business.

DELEGATE EICHHORN: Delegate Corn's concern is that the committee move the adoption of their section. Delegate Corn, who is a member of the committee and has a minority proposal, is not recognized to put that on the floor until after I have been recognized as a non-committee member and move a different amendment. My language would state that when the committee moves the adoption of its proposal section, that they would then have a chance to state the arguments for it. And following that statement, the minority proposal would automatically be--

DELEGATE BALDWIN: I think you've forgotten one thing, and I might as well get things in proper perspective. Do you understand, number one, that there would be a motion on the floor by the committee, right?

DELEGATE EICHHORN: That's right.

DELEGATE BALDWIN: Once there's a motion on the floor, what can one do? What usually happens when there is a motion on the floor? You either speak to it, you amend it, or you come in with a substitute motion, okay?

DELEGATE EICHHORN: Yes. The minority--

DELEGATE BALDWIN: So, that's all we may talk about with something that's on the floor. So, I think some of you are forgetting that this follows a motion being on the floor. Delegate Kameny.

DELEGATE KAMENY: I think that the sense of the motion proposed by Delegate Corn is unnecessarily restricted. The section of a committee's proposal may itself well be long and complex. An amendment proposed in a minority report may not be germane at the outset at all. One may want to take time to work down to it. And to require the amendment be proposed, which applies to the latter part of the long section, the instant the whole section is moved, is I think obstructive to orderly procedure. I think that Delegate Baldwin's proposal as it stands or the motion as it stands is substantially what we need without the fine tuning be proposed at the moment.

DELEGATE BALDWIN: Are there other unreadiness to the motion that's on the floor? Delegate Love.

DELEGATE LOVE: No, that's okay.

DELEGATE BALDWIN: Are there other unreadiness to the motion on the floor? Having heard none, those in favor of the motion, signify by saying, "Yes." [Response]

The question has been raised: Exactly what are we voting on? We are voting on II-B with Delegate Corn's amended motion.

A DELEGATE: No.

DELEGATE EICHHORN: Yes, we are.

DELEGATE BALDWIN: It's on the floor. It was seconded. Her amended motion. So, we have to vote on the amended motion.

DELEGATE KAMENY: So, we're voting on the amendment then?

DELEGATE BALDWIN: Yes.

DELEGATE KAMENY: Oh, all right.

DELEGATE BALDWIN: We're voting on Delegate Corn's amended motion. Those in favor of the amended motion, signify by saying, "Yes." [Response]

Opposed, "Nay." [Response]

The nays have it. The motion lost.

The original motion is as stated under B. Those in favor of the original motion, signify by saying, "Yes." [Response]

Opposed, "Nay." [Silence]

The yes have it. So ordered.

The final and last section is section C: If the minority proposal is a substitute for the committee's proposal, the presenter of the minority proposal must move for its adoption immediately after the committee chair or its designee has moved adoption of the committee's proposal.

An example would be when Mr. Blount assumes the role tonight of presenting his article, if there is a substitute motion--and it appears there will not be a substitute motion because it was taken care of last night--but if there were a substitute motion, the minute that Delegate Blount would move the adoption of his report, which would have to be section by section, the person, the presenter of that minority proposal would have to jump up there and then move his substitute proposal. That's the intent and the clarification of C.

SECRETARY COOPER: Point of clarification.

DELEGATE BALDWIN: Yes, sir.

SECRETARY COOPER: You stated that there couldn't be any amendments by minorities on Blount's tonight?

DELEGATE BALDWIN: I didn't say that, sir. I only read C. Do you have C in front of you?

SECRETARY COOPER: Yes.

DELEGATE BALDWIN: Are there other points of clarification?

SECRETARY COOPER: I didn't get my clarification.

DELEGATE BALDWIN: Brother Moore.

You didn't really ask a question [addressing Secretary Cooper]. I didn't say what you said. I only said you have to read C and then see whether or not you have a question.

Delegate Moore.

DELEGATE B. MOORE: The use of the word "immediately"--what happens if someone with a minority report has his hand raised but the chair recognizes someone else?

DELEGATE BALDWIN: The chair, the president of the convention, has to know according to our rules that this is adopted, that he would then only recognize the person with that minority report. See, the minority report has been circulated and he knows it has been circulated two or three days, and he knows that there is a minority report. And he would then at that time recognize that person. In fact, he probably would ask for it.

Delegate Bruning.

DELEGATE B. MOORE: I have another question, Mr. Baldwin.

DELEGATE BALDWIN: Yes, sir.

SECRETARY COOPER: Point of procedure.

DELEGATE B. MOORE: Whatever happened, if for some reason, the president had gone to other business--say the delegate was out of the room--

DELEGATE BALDWIN: You would jump up and call a point of order and you would state your point of order as not following this, and then you would get him back on track.

Delegate Bruning.

SECRETARY COOPER: Point of procedure.

DELEGATE BRUNING: I was going to raise the same question about making sure that the person who had a minority report would be recognized. I think your question I hope the president would essentially ask directly: Is there a minority--

DELEGATE BALDWIN: I'm sure some of us would be alert enough to call a point of order.

DELEGATE BRUNING: If that's so, I have no problem. Thank you.

DELEGATE BALDWIN: Are we ready for the question? Those in favor, signify by saying, "Yes." [Response]

Opposed, "Nay." [Response]

The yes have it. So ordered. Then, Mr. President, we have adopted the suggested procedures for presentation of proposals.

DELEGATE SHELTON: May I have a point of information, Mr. Baldwin?

DELEGATE BALDWIN: Yes.

DELEGATE SHELTON: On the substitute motion, what would then take place after that? This is just for information. Would you then have a debate on the substitute motion?

DELEGATE BALDWIN: He's presenting a substitute proposal by that proposal that's on the floor. And then it would follow all the rules and procedures that you would do with anything else that's on the floor--debate it, people would speak to it, against it, follow all the rules, two for, two against, and then vote it up or down.

DELEGATE SHELTON: Thank you.

DELEGATE BALDWIN: Delegate Love and Delegate Moore. We're through with this. Now, keep in mind this has been adopted, and I'll turn the chair back over to the president so that we might proceed.

PRESIDENT CASSELL: Thank you very much, Mr. Vice President.

DELEGATE LOVE: Mr. Chair, first of all, I would like to totally protest the idea that a writer of a motion chairs the discussion of his motion. That is a total violation of every Robert's Rules that has ever been named. [Scattered applause]

DELEGATE CORN: Bravo for courage.

DELEGATE LOVE: And I'd like to go on record as just saying I hope this never happens again in the convention.

DELEGATE BALDWIN: I didn't quite get your question. What was your statement?

DELEGATE LOVE: It is totally against Robert's Rules that somebody who makes a proposal chairs the discussion of the proposal. And I just want to go on record as opposing that and asking that it never happen again in the convention.

DELEGATE BALDWIN: It's against Robert's Rules for me to present my proposals?

DELEGATE LOVE: It's against the rules for somebody to chair a proposal of their own, yes.

DELEGATE KAMENY: Where does it say that in Robert's Rules?

DELEGATE BALDWIN: We'd like to see that in Robert's Rules.

PRESIDENT CASSELL: I'd like to respond to that.

DELEGATE BALDWIN: There's no such thing. There's no such thing, sir.

PRESIDENT CASSELL: You have asked that it never happen again without a citation that this is against Robert's Rules of Order or--

DELEGATE LOVE: I will find the citation.

PRESIDENT CASSELL: --clearly against ours. But you really should be prepared to cite that before you make such a strong--

DELEGATE LOVE: I will bring the citation.

Mr. Chair, I'd like to move at this point--this proposal I think contains rule changes. As such, I would like to move that this proposal be temporarily adopted and it be sent to the rules committee as per our rules for examination to see whether or not it does contain changes in the rules and, if so, that that committee reports back to this body promptly with those changes.

DELEGATE ROTHSCHILD: Second.

DELEGATE CORN: Second.

PRESIDENT CASSELL: That's of course entirely out of order. The body has already adopted. It can't very well do that--

DELEGATE CORN: Point of order, Mr. Chairman. The body cannot adopt without following the rules. From what I understand from our press and from other members in this gallery, there was never a vote taken as to whether or not this was a change in the rules.

I would also like to point out that even if the body said this is not a change in the rules, it is just a change in procedure, rules are our form of procedure; and, therefore, a change of procedure is indeed a change in the rules. And you cannot, without suspension of the rules, adopt these things in total or in part without going through the procedure of changing the rules, unless you suspend the rules. And I submit, sir, that by suspending the rules you are inviting total chaos whereas you seek to create order because by suspending the rules to adopt these, what you're really doing is--

PRESIDENT CASSELL: Delegate Corn, I don't know that you're speaking to anything that has happened. We haven't suspended the rules.

DELEGATE CORN: I am. You have indeed changed the rules, sir.

DELEGATE BALDWIN: Mr. Chairman, orders of the day, Mr. Chairman. Mr. President, orders of the day.

PRESIDENT CASSELL: Order of the day has been called. Thank you very much, Delegate Corn. Thank you very much. I understood clearly what you said.

Delegate Blount.

Let me ask you also now--we have spent--time is now 8:11. We have spent this much time in order to expedite and clarify the procedures that we'll follow tonight. And this body has adopted procedures for the rest of the convention. We'll have some changes in it. Therefore, I would hope that we would all note the changes that have been made and try honestly to follow them for the purpose of not losing any more time. I would point out also this is the second night that we've been dealing with a report, the report of the judiciary branch. I'm certain that all of us would like to finish that. And perhaps more important than objections about procedures, having spent this much time on it, is getting on with the convention. And I'm certain that nobody wants to hold it up. Certainly nobody wants to undermine the convention's timing nor its purposes. We have committed ourselves to do what we can. I think that each time I've made that statement, everybody has agreed with me. I've never heard any disagreement whatsoever.

Let us proceed now, using the rules and the procedures established tonight to try to finish what we came here to do tonight.

Delegate Blount.

DELEGATE BLOUNT: I move the adoption of the judiciary article ad seriatim, beginning with section 3.1.

DELEGATE B. MOORE: Point of information.

PRESIDENT CASSELL: Hold on just a minute. Is this a sincere point of information?

DELEGATE B. MOORE: Yes, it is.

PRESIDENT CASSELL: This is not obstructive? It's not going to take a whole lot of time?

DELEGATE B. MOORE: No.

PRESIDENT CASSELL: And as soon as you get your information, you will allow the brother to continue?

DELEGATE B. MOORE: That's correct.

PRESIDENT CASSELL: Thank you.

DELEGATE B. MOORE: Last night--could I have order, please? Last night I withdrew my motion that I had at the end of the evening. And I'd like to ask the chair for an interpretation now. If I wanted to represent my motion as a whole to this body, number one, would this be the appropriate time after Mr. Blount makes a proposal? And, number two, if the proposal is voted down, could I make amendments to the motion offered by Mr. Blount on the floor?

PRESIDENT CASSELL: Everything that you have asked is your right and in accordance with the procedures. I would hope that if you were intending to make a motion for a substitute proposal, that you would recognize that we have all heard them. There was extensive debate. And you would simply say, "Having heard my arguments last night, I offer this without debate." I don't think you want to go through all that again. It's more important to proceed rather than to review over and over. No particular minority report is that important.

DELEGATE B. MOORE: I understand.

PRESIDENT CASSELL: Very good.

DELEGATE B. MOORE: You have to remember something. Last night the majority report was given over two hours, as Mr. Baldwin said. There was a recess. I got up in front of the floor and made a 12-minute presentation. I asked two questions, and then Mr. Baldwin interrupted me. And then the rest of the evening was taken up by questions of procedure. And yet I think I suffered the results of a lot of acrimony due to the lateness of the evening, the procedural problems, and I withdrew my motion because of that. The environment was terrible.

PRESIDENT CASSELL: What was your promise to me when I gave you an answer to your question? You're expressing some feelings and some attitudes. You promised you weren't going to do that. You said you wanted an answer. I gave you an answer. I'd like to proceed.

DELEGATE B. MOORE: What was your answer to my first question? Can I offer it as a whole?

PRESIDENT CASSELL: I pointed out to you that you lose no rights to offer amendments or substitutes as long as they are consistent with the rules.

DELEGATE B. MOORE: Secondly, if it's defeated, can I still offer it--

DELEGATE THOMAS: Mr. President, point of order.

PRESIDENT CASSELL: Point of order. State your point of order.

DELEGATE THOMAS: Mr. President, I don't see no way in the world in any rules that one come up last night with a proposal, withdraw it, and come back tonight with the same proposal. I think this is out of order.

PRESIDENT CASSELL: That would be something to consider if it's offered again.

DELEGATE THOMAS: And I object to it.

PRESIDENT CASSELL: Thank you very much.

Delegate Jordan.

DELEGATE JORDAN: Mr. Chair--

DELEGATE B. MOORE: Mr. President, I asked the second question because of the fact.... I'm aware of the anger that people feel about this. And I'm aware that I can turn off the whole crowd. But--

PRESIDENT CASSELL: I'm aware of that also, and I think you should not only be aware of it, but that you should act on it. And what you're doing now is going back on your promise to me that once you got an answer, that you would allow us to proceed. I know what your feelings are. I have feelings too. But I have to restrain them. And I'd take my chances and try to proceed in accordance with the rules and hope the body accepts my desires. If they don't, I lose. But we still have to move on. It's a lot more important. And I'm going to recognize somebody else. I think you've taken enough time today.

DELEGATE JORDAN: Mr. Chairman, see, I've been riding on a point of information, and I've heard a lot of discussion about rules this evening. I raised this question a couple nights ago because we were extending ourselves to one of the delegates. Mr. Chairman, as I understand--I want you to just tell me if I am correct or not--section 3.2 of the rules requires--it states that a minority report is, if delivered on time, shall be transmitted to the president along with the committee proposal and shall accompany the committee proposal thereafter.

Also section 3.3B provides for the committee--

DELEGATE CLARKE: Point of order.

DELEGATE JORDAN: That's what I'm rising on.

PRESIDENT CASSELL: Let me respond to the point of order.

DELEGATE CLARKE: The point of order is--

PRESIDENT CASSELL: Wait a minute. I'm responding to a point of order. Let me rule on that. Yes.

DELEGATE JORDAN: All I'm suggesting, Mr. Chairman, is I need to know if in fact minority reports have any position here and all in terms of being presented. As I heard it, it was stated that the delegate felt that he had a right to present a minority report. And I'm saying, as I understand it, a minority report has to be submitted as part of the total committee report, 3.3B.

PRESIDENT CASSELL: Let me respond to the point of order.

DELEGATE EICHHORN: It's not a point of order. I have I think a valid point of order. My point of order--

PRESIDENT CASSELL: I think what he is saying--wait a minute. The chair will decide what's valid or not. And I think that what he is asking is, as a point of order, as to whether it was appropriate for the minority report to have been delivered last night or again tonight. The chair read each of the four articles last night on minority proposals from 3.2 to satisfy himself and the convention that the minority report was submitted in accordance with the rules. That meant each one of those. The secretary has verified that. Therefore, I think that if that is to come up again, it would have to come up in accordance with the existing rules.

Now, Delegate Clarke had a point of order.

DELEGATE CLARKE: My point of order is that there is simply nothing on the floor. The man didn't move anything. We're debating an issue that's not even before us. Can we go to the judiciary committee presentation?

PRESIDENT CASSELL: I think your point is well taken. Delegate Blount.

DELEGATE BLOUNT: I move the adoption of the judiciary article ad seriatim beginning with section 3.1.

DELEGATE KAMENY: Second.

PRESIDENT CASSELL: It has been moved and seconded that ad seriatim the adoption shall take place for rule 3.1 of chapter 3.

DELEGATE CORN: Amendments.

PRESIDENT CASSELL: Are there any amendments?

DELEGATE CORN: In lines 2 and 3, I would like it to read: consisting of a Superior Court, an Appellate Court, and a Supreme Court, period, and delete the rest of 3 and 4. And then it would read--so, the whole section would read: The judicial power of the State shall be vested in a unified judicial system, consisting of a Superior Court, an Appellate Court, and a Supreme Court. All such Courts shall be Courts of Record.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and--

DELEGATE CORN: That creates a three-tier system.

PRESIDENT CASSELL: Yes. I don't have the wording on that. Have you written that out so we can read it back?

DELEGATE CORN: I'll be glad to give it to you right now.

DELEGATE BALDWIN: If you have Delegate Garner's minority report, it's verbatim.

DELEGATE CORN: What?

DELEGATE BALDWIN: I told him if he had Delegate Garner's minority report, what you gave is verbatim.

DELEGATE CORN: From whose minority report?

DELEGATE BALDWIN: From Delegate Garner.

DELEGATE CORN: I never even got his minority report.

DELEGATE BALDWIN: I mean, from Delegate Moore's minority report. Whether you got it or not, it's verbatim and I can read it to you. So, that's all. He just didn't have it. And he's just saying he can report back what you said by reading.

DELEGATE CORN: Whose minority report are you saying it is?

DELEGATE BALDWIN: Brian Moore.

DELEGATE CORN: No, it isn't because he talks about neighborhood courts. This is a different three-tier system. It's the traditional one used in every state.

PRESIDENT CASSELL: Delegate Corn--

DELEGATE CORN: Yes.

PRESIDENT CASSELL: --please respond to the chair. The chair has requested that inasmuch as there were many, many words in your proposed amendment that you write them out and offer them to the secretary so that he can read them.

DELEGATE GRAHAM: Point of information, Mr. Chair.

PRESIDENT CASSELL: Point of information.

DELEGATE GRAHAM: I would like to know--

PRESIDENT CASSELL: Delegate Graham, let's wait until we get this motion seconded. And then we can ask questions.

SECRETARY COOPER: It was seconded.

DELEGATE BALDWIN: It was seconded.

PRESIDENT CASSELL: It still isn't clear, though. I'm not sure about it myself. I need to hear it read back.

SECRETARY COOPER: The judicial power of the state shall be vested in a unified judicial system consisting of a superior court, an appellate court, and a supreme court.

All such courts shall be courts of record.

PRESIDENT CASSELL: Does that delete "and shall include such inferior courts as may from time to time be established by law"?

DELEGATE CORN: Yes, sir, it does.

PRESIDENT CASSELL: Okay.

DELEGATE CORN: Now may I speak to my motion?

PRESIDENT CASSELL: Yes, you may.

DELEGATE CORN: The reason I am proposing this three-tier system is this is the traditional system used in almost every state in the union. Moreover, the way the current system is in the District of Columbia now and pretty much the way it looks to me and my attorney--because I read this whole report to him today--is with a two-tier system you actually are having the superior court act as the appellate court, and the lower court is basically right now all of these little hearing examiners that you have over at the rental accommodations office, the rental accommodations committee, commission, the EEO. Every time you have a dispute you go through this situation where you go to some different governmental agency in the District of Columbia, and they are adjudicating the case and you have a hearing examiner. The difference is that hearing examiner neither has been selected through a very careful process of a judicial selection nor elected. And this way, by having a three-tier system, you create the kind of court system that every state in the land just about has. And I would move for the adoption of this. Thank you.

DELEGATE OULAHAN: Mr. President, this is a proposal which was considered by the committee and rejected as not having any basis for need. Every one of the people who testified before our committee said there was no need for a three-tier system in the District of Columbia.

Secondly, I'm afraid Delegate Corn has her appeals all mixed up. The kind of appeal she's talking about usually go to the D.C. Court of Appeals. The Superior Court is a trial court.

Third, she eliminates the power to appoint inferior courts. That means, if you leave it out of this section, you're not going to have any courts at the neighborhood level because there's nothing in the constitution which permits the legislature to appoint these inferior courts.

PRESIDENT CASSELL: Where are we, Mr. Blount.

DELEGATE BLOUNT: A member of the committee spoke against it.

PRESIDENT CASSELL: All right, Mr. Brian Moore.

DELEGATE B. MOORE: Yes, I move to amend the motion on the floor to include in place of inferior courts a neighborhood court.

A DELEGATE: Call the question.

DELEGATE LOVE: Second.

PRESIDENT CASSELL: It was moved and--it was seconded?

DELEGATE LOVE: Second.

PRESIDENT CASSELL: All right, it was moved and seconded that inferior courts should be inserted where?

DELEGATE B. MOORE: No, remove it and put in its place neighborhood courts.

PRESIDENT CASSELL: Okay, consisting of a superior court, a supreme court--this is on line 3?

DELEGATE B. MOORE: Yes, sir. I believe--I don't have the sheet.

PRESIDENT CASSELL: You had better read that again.

DELEGATE CORN: Sir, I had an amendment in there that it be an appellate court.

DELEGATE B. MOORE: Yes, yes, line 3. That's correct.

PRESIDENT CASSELL: I'm sorry?

DELEGATE B. MOORE: That's correct, line 3.

PRESIDENT CASSELL: Would you read that again, please.

DELEGATE B. MOORE: Okay. I move to amend the motion to include neighborhood court in place of inferior court, which is on line 3 and 4.

DELEGATE EICHHORN: It cannot be in place of because it's not there.

DELEGATE B. MOORE: I mean, I move to amend that motion.

DELEGATE CORN: You're moving a substitute motion.

PRESIDENT CASSELL: You know, what you're doing, you're not amending hers because she has already excluded that line which includes courts. In other words, she has excluded "and shall include such inferior courts as may from time to time." So, I think if you want to include that again, this would be a substitute motion. It's not an amendment to hers.

DELEGATE B. MOORE: All right, a substitute motion then. Thank you.

[Pause for officers to confer]

PRESIDENT CASSELL: Okay, Delegate Moore, we have been trying to clarify whether what has been offered is a substitute or an amendment.

DELEGATE B. MOORE: Yes, this is a substitute motion to remove the appellate court and to insert the neighborhood courts so that it would read supreme, superior, and neighborhood courts.

PRESIDENT CASSELL: Is there a second to that motion?

DELEGATE B. MOORE: Bob Love.

PRESIDENT CASSELL: Is there a second to that motion?

DELEGATE LOVE: I seconded Brian Moore's motion, yes.

PRESIDENT CASSELL: Are you sure you know what the motion is?

DELEGATE LOVE: The motion is that the third level of courts be called neighborhood courts, sir.

PRESIDENT CASSELL: Hey, very good. All right, discussion.

DELEGATE CORN: Discussion.

DELEGATE B. MOORE: Yes. Can I make my explanation?

PRESIDENT CASSELL: Yes, you may.

DELEGATE B. MOORE: Thank you very much. I wish that the judicial power of the state shall be vested in a unified system which, as I said, consists of a supreme court, superior court, and a neighborhood court. And the first of course could be a court of record. And my reasons for doing this...

PRESIDENT CASSELL: [Rapping gavel] Delegate Moore prays for order, please.

DELEGATE B. MOORE: Thank you...are several and varied. Number one, and most obvious is that there would be easier access on the part of individuals in the community to the judicial system. There would also be a shorter time limitation. You would not have to wait for your case to be brought up before courts in the neighborhoods. It would be expedient and attended to and most satisfactory properly to the person accused as well as to the neighborhood who's concerned about the problem. This would allow citizen participation, full citizen participation, since you would have non-attorneys or attorneys but people from the community sit on this on a yearly basis, and they would be elected by the community.

The use of common sense would play a big role here. They are not attorneys by trade, but there is a lot of value and wisdom in the average common man and his perception on justice, and I think it would do a lot of good for the community as a whole. Right now we have a very sophisticated system with attorneys, but sometimes I feel that common sense is lacking. This would educate the lay people on the panel, the victim, and the offenders as well when you participate in the judicial system. Right now most people don't have the faintest idea what happens in the courts.

It would promote community responsibility and unity. It would restore faith in the judicial system and in the judges and in lawyers. It would provide a sense of control over our own situations, our own local situations. It would restore dignity in ourselves. And it would promote respect for the law because right now many people do not respect the laws because they feel that they're abused and misused and taken advantage of.

All of these would come about--all of these things, these ideas. This environment would be created by lay people participating on a lower level court system that would apply justice where it belongs.

PRESIDENT CASSELL: Delegate Corn.

DELEGATE KAMENY: Mr. President, I believe I was recognized first.

PRESIDENT CASSELL: No, no, no. It's Moore, Corn, Baldwin, and then Kameny.

DELEGATE CORN: I would speak against the Moore amendment. I'll tell you why. The whole point of going to court--when you are adjudicated, when you are being judged by a jury, you're judged by a jury of peers. But that jury is very carefully selected so that no one on that jury personally knows you and has any interest personally in your case. When you have a neighborhood court, it is bound to have people on that court sitting who know you. If you bring suit against someone or someone brings suit against you and people on that neighborhood court know either one of you, I cannot help believe justice will be done. It can't possibly be. Never.

I would strongly speak against having neighborhood courts for this reason. If you live in a neighborhood that is primarily tenants and a landlord brings a suit, how can the landlord get a fair hearing? Vice versa. If you live in a neighborhood such as mine where there are mostly landlords, how could a tenant get a fair hearing?

I'm talking about in my neighborhood. It would be very hard for anybody to go along with a tenant's point of view.

DELEGATE THOMAS: Time is up, Gloria.

DELEGATE CORN: My time is not up.

PRESIDENT CASSELL: Please continue. Time is running. The clock is running.

DELEGATE CORN: I would also state this. If you know the people in your community, it really is very hard to get a fair hearing either way. Either they like you personally and they will not judge the merits of the case, or they don't like you personally and they won't judge the merits of the case. Again it goes back to the idea of the jury system, having your peers judge you, but those peers don't know you, have no personal interest in the case and no previous bias. And that would be absolutely impossible on a neighborhood court basis. I urge you to vote against this amendment.

PRESIDENT CASSELL: Delegate Baldwin.

DELEGATE BALDWIN: Mr. President, I rise to speak against the Brian Moore amendment--substitute--no, it's an amendment. Whether he refers to it as a substitute or an amendment, it is in fact an amended motion. But I'll call it a substitute motion for your benefit. I rise to speak against the substitute motion for the following reason. Number one, our unified court system as stated is a two-tier form of government. If this motion is passed, it will in fact give us a three-tier form of court system and will prevent the legislators from creating inferior courts. Therefore, I speak against the substitute motion.

PRESIDENT CASSELL: Delegate Kameny.

DELEGATE KAMENY: Thank you, Mr. Chair. I rise to speak against Delegate Moore's motion on several grounds, many of which have been addressed.

First, if this proposal is going to go in, we have to have a great deal of additional language further on indicating the powers and limitations on powers of these courts, their structure, manner of appointment, the people who are to serve on them, the procedures for appeal from their decisions. And, rest assured, there will be appeals from their decisions, which will send all the cases right back into the regular court system anyhow, unless you preclude appeals, which I certainly would not want to stand for.

With all due respect to my neighbors--many of whom are very, very nice people--the last thing in the world that I would want to be tried by, people, are my neighbors, and for just that reason. And Delegate Corn made the same point. We choose juries who don't know the people before them, not juries who do know them, and this is the same point. I want to be tried by judges or their equivalent who know the law and not just their sentiments and feelings toward me and whatever alleged offense I am being charged with.

Furthermore, for any of us who may, for one reason or another, belong to an unpopular group of people, the last thing in the world we want is to be tried by our own neighborhoods. That is not the way to achieve justice. I think that this is a poorly and ill-advised proposal. I urge that it be voted down. Thank you.

PRESIDENT CASSELL: All right, Delegate Love.

DELEGATE LOVE: Fellow delegates, there are around the country about 200 neighborhood courts known under various names like neighborhood justice centers. The point of them is to not try criminals; it's not even to have trial by jury. Instead the purpose of them is to settle neighborhood disputes, small kinds of disputes that people cannot afford to go to higher and expensive courts for, somewhat like an arbitration center. We have one in the District now, but it doesn't work everywhere very well. It's an arbitration center in the neighborhood. I doubt this is going to pass, and I'd like to urge those delegates who feel strongly that law should be in the community as well as downtown to vote in favor of this and let the commission that is supposed to be proposing the possibility of having these courts later on know that there was support in this hall for the idea that there are many things that can be solved at the neighborhood level and do not have to be solved in a big fancy court downtown. We're not talking about criminal cases. We're not talking about jury trials. We're talking about little things. Your neighbor runs over your garden wall and it cost $50 to repair it. You can go work it out. You can work it out at a neighborhood level.

So, I'd like to urge, just in terms of sentiment, to let people know that we support the idea of justice in the neighborhoods, that justice is not necessarily found downtown, to vote in favor of this amendment. Thank you.

PRESIDENT CASSELL: We've now had two for and three against. I'd like to take a vote.

DELEGATE BLOUNT: Mr. Chairman, I move the previous question.

SEVERAL DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that we cut out debate.

SECRETARY COOPER: Point of order, Mr. President. There were people trying to be recognized. Mr. Blount wasn't recognized.

PRESIDENT CASSELL: Delegate Clarke.

DELEGATE CLARKE: All right, I had my hand up. I move the previous question.

PRESIDENT CASSELL: Second?

A DELEGATE: Second.

PRESIDENT CASSELL: All right, it has been moved and seconded that we cut off debate. Those in favor, signify by saying, "Aye." [Response]

Those opposed? [Response]

Abstain? [One abstention]

Those in favor of cutting off debate, signify by showing their hands, please. [Show of hands]

DELEGATE CORN: What is that?

PRESIDENT CASSELL: If you're in favor of cutting off debate, raise your hand.

DELEGATE CORN: This is on the Brian Moore proposal, right?

DELEGATE EICHHORN: Right.

SECRETARY COOPER: Eighteen.

PRESIDENT CASSELL: Those opposed? [Show of hands]

SECRETARY COOPER: Six.

PRESIDENT CASSELL: Abstain? [No abstentions]

Eighteen and six is twenty-four. Motion carries.

All right, back to the original motion. Those in favor of Delegate Moore's motion, signify by raising your hands. [Show of hands]

DELEGATE CORN: This is on Moore's proposal.

PRESIDENT CASSELL: Yes.

SECRETARY COOPER: Five.

PRESIDENT CASSELL: Those opposed? [Show of hands]

SECRETARY COOPER: Seventeen.

PRESIDENT CASSELL: Abstain? [Two abstentions]

Okay, the motion loses.

Delegate Blount.

DELEGATE CORN: Now my motion.

PRESIDENT CASSELL: Okay, we're back to the original amendment now, the first amendment to Delegate Blount's amendment. That is Delegate Corn's. Delegate Kameny.

DELEGATE KAMENY: I rise to speak against Delegate Corn's motion, mostly to supplement what has been said. Delegate Oulahan spoke ably I think. He said most of what needs to be said. However, I want to add to it that Delegate Corn I think misunderstands the administrative hearing process. Many of the hearings of which she spoke are administrative hearings which are not going to be affected by this. For example--and I speak personally--as a commissioner on the human rights commission, I served in a judiciary function along with my fellow commissioners, heard cases, and rendered decisions. That would be absolutely untouched by your motion, and it should not be touched by your motion. It should remain as it is. Therefore, that whole area about which you complained briefly but bitterly would be quite untouched. And if you consider it to be in need of remedy, why not remedy it? I don't consider it to be in need of remedy.

Beyond that, Delegate Oulahan had said most of what needs to be said. I urge in this particular respect that we stand with the committee's proposal.

PRESIDENT CASSELL: Further discussion on this Corn amendment?

DELEGATE ROTHSCHILD: Rothschild, Ward 2. I'd like to speak in favor of the Corn amendment, which would create a three-tier system. A majority of the states have the three-tier system. And the logic behind it to me makes sense, for this reason. If we have the lower courts doing the trying and a second level that's handling most of the appeals, then the third level is handling the more philosophical in-depth setting of the law and actually really clarifying the law. So, I think that by having the middle level we are really opening a greater possibility for appeals. If people think that this overloads the judiciary system, the number of judges at each level can be controlled. But, nevertheless, by having that clear second level, it means that we give good attention to appeals. By having only a two-tier system I think particularly a two-tier system where all the judges on the second tier sit en banc, all together, I think there will be the tendency to try and suppress or keep down the number of appeals because you're having--at this point it's in the whole proposal--you're having 45 courts filter all their appeals into essential one court with the nine justices, whereas if you have that second level, I think more appropriate attention will be given appeals, and I'm in favor of it. Thank you.

PRESIDENT CASSELL: Delegate Charles Mason. And then Eichhorn. Delegate Charles Mason.

DELEGATE C. MASON: I think there is some merit in what has been said in favor of having an intermediate court of appeals. I also recognize that the committees held hearings on this and didn't get very much testimony in favor of this. I would therefore like to have the language leave the possibility that the legislature at some future time could establish a court of appeals if it thought it necessary. I would not think that any need for change in the language here is necessary so long as it is clear that inferior courts means any court inferior to the supreme court. I asked that question yesterday, and the committee said committee members had not meant that. This could be resolved in either of two ways, I suppose. Some clear indication on the record that inferior courts would include any court less than the superior court or an amendment to say just that.

DELEGATE CORN: Excuse me. Since I'm the maker of the motion, I would withdraw my amendment in favor of Mr. Mason's suggestion since the line shall now read: The judicial power of the state shall be vested in a unified judicial system consisting--

PRESIDENT CASSELL: Delegate Corn, first of all, you haven't been recognized, have you?

DELEGATE CORN: I thought you nodded to me.

PRESIDENT CASSELL: The next person is Delegate Eichhorn. Delegate Eichorn.

DELEGATE EICHHORN: I was going to call the question, but I think we need to resolve this issue.

DELEGATE CORN: May I be recognized, sir, for a resolution?

PRESIDENT CASSELL: I'm sorry, there were others before you. Delegate Bruning.

DELEGATE BRUNING: Thank you. As a point of information I would like our general counsel, who we defer to hopefully in terms of legal advice, to say whether or not the interpretation of inferior normally would be considered to include. And, if not, then I would like to be recognized for a motion. Thank you.

PRESIDENT CASSELL: Yes. Mr. General Counsel, would you care to respond to that?

MR. THOMAS: Just a minute. Could I have a repeat of the question?

DELEGATE BRUNING: Yes. The question that Mr. Mason raised was whether or not the word "inferior," in terms of creating inferior courts could essentially include the ability to create--in other words, an inferior court would be considered anything less than the supreme court. In other words, with that reading creating inferior courts, would that include the possibility of creating an intermediate court of appeals?

MR. THOMAS: My first question, in response to the question, is: Why make it presumptuous in the first place? If there is an easier way to say what you mean, simply say what you mean. Why lead to conjecture anyway?

DELEGATE EICHHORN: The question is whether we can create possibility for the legislature at some later point to establish a new court which is above the superior court in ranking and below the supreme court by interpreting such a court and the existing superior court established by the constitution as an inferior court. If we were to do that, we would be saying that the legislature may take--

DELEGATE BRUNING: Mr. Chair, point of order. I asked the legal counsel. I did not ask Jan, with all due respect.

DELEGATE EICHHORN: But I had asked to be recognized.

DELEGATE BRUNING: Jan, I believe that I was recognized, and I'm still addressing my question to the general counsel.

PRESIDENT CASSELL: All right, Mr. Bruning asked a question. It seemed that perhaps the question wasn't quite clear, and Delegate Eichhorn was making an attempt, I think, to explain. Mr. Bruning, inasmuch as the response was perhaps not clear and complete, would you want to rephrase your question again to the general counsel?

DELEGATE BRUNING: Yes. Having understood what you said in terms of making it clear, putting clear language in, nevertheless if we decide not to do that, does the word "inferior" leave open the possibility of a court below the supreme court?

MR. THOMAS: As it reads right now?

DELEGATE BRUNING: As it reads right now. Just a plain reading of the thing from a legal point of view.

MR. THOMAS: A question like this, I want you to know, is hard to answer on the spot without doing adequate legal research. But I would think that it would be challengable if an intermediate appeals court was attempted to be established by the legislature. I would guess that it would be challengable. Whether or not this language would carry the day would ultimately be decided by a court.

PRESIDENT CASSELL: Let me ask a question. Read just as it's written now, what authority would that give to the supreme court?

MR. THOMAS: State the question again, please.

PRESIDENT CASSELL: Let me state that another way. Let me read it: The judicial power of the state shall be vested in a unified judicial system consisting of a superior court and a supreme court and shall include such inferior courts as may from time to time be established by law. What is meant there by inferior courts just as it's read?

DELEGATE CLARKE: Mr. Chairman, clarification? Clarification, Mr. Chairman.

DELEGATE EICHHORN: Can the committee respond to that, Mr. President? Can the committee respond to that?

PRESIDENT CASSELL: Mr. Counsel, shall we get some other opinions?

DELEGATE KAMENY: The committee can define it so they could respond.

MR. THOMAS: All right.

PRESIDENT CASSELL: All right, anyone on the committee.

DELEGATE CLARKE: Mr. Chairman, I think that normally in the exercise of statutory and constitutional intepretation a court considering this question would presume that the constitutionally created court is of a higher dignity and standard than the legislatively created court, and, therefore, absent specific language to the contrary, would interpret the word "inferior" as meaning inferior to the constitutionally established trial court. So that if you would want to divide the capability of the legislature to provide an intermediate appellate court, it would have to be specifically provided.

MR. THOMAS: All right, I'm inclined to agree. I'm inclined to agree.

PRESIDENT CASSELL: The committee has asked if we can hear from their research assistant.

MS. BAKER: When you see the term "inferior court" lined up in section 3.1, inferior would be beneath. So, inferior courts are courts such as probate, tax, divorce, juvenile, social services, and they would come under the direct administration of the superior court. So, yes, it is a court under the direction of the superior court, which is below the supreme court or the appellate court.

PRESIDENT CASSELL: Delegate Bruning.

DELEGATE BRUNING: What?

PRESIDENT CASSELL: Has your question been answered?

DELEGATE BRUNING: Yes. Thank you.

PRESIDENT CASSELL: Delegate Eichhorn.

DELEGATE EICHHORN: I call the question.

DELEGATE BLOUNT: Second.

PRESIDENT CASSELL: The question has been called. Those in favor of cutting off debate--

DELEGATE CORN: Sir, as the mover of the motion, I may speak last if I so desire.

PRESIDENT CASSELL: I'm afraid you can't if we had two for and two against.

Delegate Corn, you are recognized; we do not have two for and two against.

DELEGATE CORN: Well, do you want to first have the two for and two against; then I'll speak last?

DELEGATE ROTHSCHILD: Point of order, Mr. Chairman. Delegate Charles Mason was working up a thought when he asked for the advice of the counsel. Since that advice has been sort of passed on, maybe Delegate Mason would like to--

PRESIDENT CASSELL: You're entirely out of order. Delegate Mason is capable of making that point if he wants.

Delegate Corn.

DELEGATE ROTHSCHILD: Well, you were calling the question.

PRESIDENT CASSELL: Delegate Mason seems quite serene and capable of standing when he wants to be recognized.

DELEGATE CORN: May I change the motion slightly now so as to--[Delegates respond, "No."]

PRESIDENT CASSELL: Do you want to speak up on the motion, Delegate Corn?

DELEGATE CORN: Yes. I'd like to speak for my motion in final analysis. I did want to have a superior court, an appellate court and a supreme court. Now that inferior courts have been clearly explained to me for the first time after six or seven hours of sitting here, I have no objection to having inferior courts as they were explained.

PRESIDENT CASSELL: Would you like to withdraw your motion?

DELEGATE CORN: I would only like to withdraw part of my motion. I'd like to withdraw the part that would have excluded the words--

PRESIDENT CASSELL: You can't withdraw a part of a motion now. What you're doing is amending the motion.

DELEGATE CORN: Move for division. Move for division.

DELEGATE EICHHORN: Point of order, Mr. Chairman.

PRESIDENT CASSELL: Point of order. State your point of order.

DELEGATE EICHHORN: The delegate rose as the second person in support of her amendment. She is speaking against her amendment.

DELEGATE CORN: No, I'm not against my amendment.

DELEGATE EICHHORN: You changed your mind.

PRESIDENT CASSELL: Delegate Corn, you indicated you wanted to speak for your motion. You are now saying that you don't think it's necessary. I rule your discussion out of order. The question has been called.

Those in favor of cutting off debate, signify by saying, "Aye." [Response]

Those opposed, "No." [Response]

Okay, the original motion is on the floor, and that is Delegate Corn's motion to amend. Those in favor of Delegate Corn's motion, signify by saying, "Aye." [Response]

Those opposed? [Response]

Abstain? [No abstentions]

Motion loses. We are now back to the original motion to adopt section 3.1.

Delegate Mason.

DELEGATE H. MASON: Mr. Chairman, I have a friendly amendment. I hope I don't have to make it in a formal way. It would seem to me that it would be more appropriate to name supreme court before superior. Can't we just approve that in a consensus way without having to take it to a vote?

PRESIDENT CASSELL: Does the committee have any objection to that? [No objection]

Delegate Eichhorn.

DELEGATE EICHHORN: I call the question.

PRESIDENT CASSELL: Is there anybody who hasn't spoken who would like to speak? I see this hand in front of me that has been speaking all night. Nobody else?

Delegate Rothschild.

DELEGATE ROTHSCHILD: I would like to amend 3.1 to read: The judicial power of the state shall be vested in a unified judicial system consisting of a supreme court, a superior court, and a court of appeals, and shall include such inferior courts as may from time to time be established by law. All such courts shall be courts of record.

DELEGATE CORN: Second.

DELEGATE OULAHAN: Point of order.

PRESIDENT CASSELL: Point of order.

DELEGATE OULAHAN: That motion is out of order, Mr. Chairman. We have been over this before. This is just a slight variation--

DELEGATE CORN: Oh, no, it's a considerable variation. My original motion had two major points in it. There was no division. So, it was either voted up or down.

PRESIDENT CASSELL: Delegate Corn, wouldn't you try to wait for recognition? It really doesn't, you know, get us anywhere.

It seems to me that the motion made by Rothschild has been made before. In essence it has, and it has been rejected.

DELEGATE CORN: No, sir.

PRESIDENT CASSELL: And I really don't think we need to continue going over and over--obviously it would lose if we voted on it again.

DELEGATE CORN: Point of order.

PRESIDENT CASSELL: Please, don't interrupt me when I'm speaking, please.

DELEGATE CORN: But I'm allowed to under the rules.

PRESIDENT CASSELL: No, you aren't.

DELEGATE CORN: Yes, point of order, you're allowed to.

PRESIDENT CASSELL: The chair rules that that motion is out of order. Delegate Eichhorn.

DELEGATE EICHHORN: Mr. President, I think that the motion is in order. It is of a different nature than other prior motions. However, I think it would be in order for the chair to rule that because we have debated all these points we do not need two speakers for and against, it can move to a vote. The wording is different from prior motions but we have debated all the--

SECRETARY COOPER: Point of order. Point of order.

PRESIDENT CASSELL: What's the consensus of the committee on that? The committee is probably better able to respond to that.

DELEGATE BLOUNT: Mr. Chairman, will you put the question for us.

PRESIDENT CASSELL: Delegate Jordan.

DELEGATE JORDAN: Mr. President, I rise on a point of information. I just want to inquire of the chair--I keep hearing this issue about two for and two against. Now, if the rules that have been given to me are correct, I'm inquiring of the chair whether or not this is so: the only time that you are required to have a minimum of two for or two against, when there is a move for the previous question. And there is no requirement at any other point to allow two for or two against.

PRESIDENT CASSELL: Cite that for me.

DELEGATE JORDAN: 4.1 of the rules of order, section G. And there's no place else in our rules that requires, as I read it, Mr. Chairman; I'd just like for you to tell me if I'm wrong. But there's no place else in our rules that requires that you must have two people speak for and two people speak against. The only time that's applicable, as I read it here, is when you have a call for the previous question.

DELEGATE CORN: No, sir.

DELEGATE JORDAN: If you are so knowledgeable about the rules, show me where it says.

DELEGATE CORN: Excuse me, Mr. President. Point of order.

PRESIDENT CASSELL: Just hold it. I haven't recognized you now.

Delegate Jordan, is that on the second page?

DELEGATE JORDAN: No, Mr. Chairman, it's on page 17.

DELEGATE CLARKE: Point of order.

PRESIDENT CASSELL: Yes.

DELEGATE CLARKE: Mr. Chairman, you ruled Mr. Rothschild's amendment out of order. Nobody has taken an appeal. All that is before the body at this time is section 3.1.

PRESIDENT CASSELL: That is true. The chair is a bit uncertain of the validity--I'd like to check what has been mentioned, the point that has been made in the point of order.

DELEGATE JORDAN: Mr. Chairman, there wasn't a vote on the floor, and I just rose on a point of information.

I'm sure that I can do that if I want.

PRESIDENT CASSELL: All right, let me read this now: The previous question may apply to these motions. Any motion where needed, but is not in order, if any delegate desires to speak for up to two minutes and fewer than two delegates have already spoken on the delegate's side of the issue.

There's someplace else there's two for and two against. Isn't there?

DELEGATE JACKSON: Mr. Chair, it says it's not in order. It's not in order if two desire to speak. You can't call the previous question if two people desire to speak.

PRESIDENT CASSELL: All in favor of 3.1, signify by raising your hands.

DELEGATE CORN: Wait a minute, sir.

DELEGATE KAMENY: That's the original 3.1?

PRESIDENT CASSELL: Indeed. That's what's on the floor.

DELEGATE CORN: Point of order. What happened to his motion?

SECRETARY COOPER: Point of order. We didn't vote on call of the question.

DELEGATE CORN: He didn't rule on it. He kept saying he was looking into it.

PRESIDENT CASSELL: I ruled that out of order. Then Delegate Jordan pointed out that--in fact, he raised a question which I checked. I already ruled you out of order, remember?

DELEGATE EICHHORN: He did.

PRESIDENT CASSELL: Yes, I did.

DELEGATE CORN: If you rule me out of order, I want to challenge the chair.

PRESIDENT CASSELL: The issue on the floor is 3.1. All those in favor of 3.1, signify by raising your hands. [Show of hands]

Keep your hands up. All in favor of 3.1.

SECRETARY COOPER: Twenty-one.

PRESIDENT CASSELL: Those opposed? [Show of hands]

SECRETARY COOPER: Two.

PRESIDENT CASSELL: Those abstaining.

No abstentions.

Motion carries.

DELEGATE BLOUNT: I move the adoption of section 3.2.

DELEGATE KAMENY: Second.

PRESIDENT CASSELL: It has been moved and seconded that section 3.2 be adopted. Discussion. Delegate Schrag.

DELEGATE SCHRAG: Mr. President, three or four or five times tonight I am going to rise to make a perfecting amendment that has been cleared with the chairman of the committee and with Vice President Harris. These are technical changes that are necessary in the draft for various reasons and have the support of the chair of the committee. This is the first of these occasions. I move to amend section 3.2 by inserting the word "action" after the word "civil," so that it reads: any civil action. And then at the end of that line delete the words "case or controversy" and insert the word "matter" instead of "case or controversy."

DELEGATE THOMAS: Second.

DELEGATE CORN: This change will bring this section into conformity with existing law, Section 431 of the Home Rule Act, which has that phrase, "civil action or other matter," and will show that we are not intending to change the current jurisdiction of the court.

PRESIDENT CASSELL: Is there a second to that?

DELEGATE THOMAS: I seconded it.

PRESIDENT CASSELL: It has been moved and seconded that on line 7, after the word "civil" the word "action" be added and after the word "other" "matter" be substituted for "case or controversy." Discussion.

Jordan, Kameny.

DELEGATE JORDAN: Mr. Chair, I would like to ask the maker of the motion, are these technical amendments or substantive amendments.

DELEGATE SCHRAG: Technical.

DELEGATE JORDAN: Okay, thank you.

PRESIDENT CASSELL: Delegate Kameny.

DELEGATE KAMENY: I wanted to ask the maker of the motion and the committee both in terms of his comments whether in fact the committee considered whether the present jurisdiction of the court should be changed. After all, we're not necessarily straitjacketed by that. I'm not attempting to question their judgment. I want to know whether that has been considered and they decided as an affirmative decision to stick with the present jurisdiction of the court.

DELEGATE OULAHAN: There was no intent to change the jurisdiction of the court under the present Home Rule Act. Mr. Schrag is correct. His technical correction brings it into alignment with the Home Rule Act, although I don't think it changes the wording. But we agreed to it because it's a good amendment and technical.

DELEGATE KAMENY: What I'm asking is, Was consideration given--yea or nay--but was consideration given to the theoretical desirability of perhaps changing the present jurisdiction of that court? Whether you accepted it or rejected it, did you consider it?

DELEGATE OULAHAN: Yes. There was no desire to change the jurisdiction of the superior court. The word "case or controversy" was put in because--

DELEGATE KAMENY: No, I'm not speaking of the technical amendment. I'm speaking of the basic theory of his comments that--

DELEGATE OULAHAN: No. There was no intent to change the jurisdiction.

SECRETARY COOPER: Point of order. Mr. Chairman, point of order.

PRESIDENT CASSELL: State your point of order.

SECRETARY COOPER: I hear a back and forth exchange going on between Mr. Kameny and Mr. Oulahan on his motion. No one has been recognized. There is a formal amendment on the floor.

DELEGATE KAMENY: I was recognized with an inquiry as to that amendment in terms of the comment of the maker of the amendment.

SECRETARY COOPER: You stated your inquiry. Then Mr. Oulahan spoke out of order. You spoke out of order, and Mr. Oulahan spoke out of order again.

DELEGATE BLOUNT: Mr. Chairman, it might expedite matters if we could do this, the technical changes, by just general consensus if there are no objections from the body.

PRESIDENT CASSELL: Well, let's see if we can do something about our obstreperous secretary. I'm going to explain this to you once more, and then I'm going to lose patience.

SECRETARY COOPER: Go ahead.

PRESIDENT CASSELL: You asked a question. We had a delegate who rose, after being properly recognized, to address a question to the maker of the motion.

SECRETARY COOPER: You didn't recognize him.

PRESIDENT CASSELL: The chair states that he did. We can't argue about that. This is part of the problem of obstreperousness now.

The response to that was that a member of the committee responded. The chair has no problem with there being an exchange between those two individuals in order to resolve the issue. There are no rules that deny that.

Now, Mr. Secretary, let's see how we can handle your impatience, your obstreperousness, and your insistence on interrupting the normal course of events in this convention. I want you to know that the questions that you raise have not, in the opinion of the chair, been reasonable. They have not been substantive. And I beg you not to interrupt with these kinds of questions again. If the chair says he recognized somebody, he recognized somebody.

Further discussion?

SECRETARY COOPER: Point of personal privilege.

PRESIDENT CASSELL: I'm not going to recognize you.

Any more discussion?

DELEGATE BLOUNT: I move the previous question.

PRESIDENT CASSELL: All in favor of cutting off debate, signify by saying, "Aye." [Response]

Those opposed? [Silence]

Abstain? [No abstentions]

All right, we're back to the amendment. The motion on the floor is to adopt 3.2.

DELEGATE KAMENY: As amended.

A DELEGATE: Delegate Schrag's motion.

PRESIDENT CASSELL: We are back to the amendment by Delegate Schrag, which is to substitute the word "action" or rather to insert the word "action" after "civil" and to substitute the word "matter" for "case or controversy" after "other." Those in favor of that motion, signify by saying, "Aye." [Response]

Opposed? [Silence]

Abstain? [No abstentions]

Motion carries.

Delegate Blount.

DELEGATE BLOUNT: We are now on the main motion, 3.2.

PRESIDENT CASSELL: We are now on the main motion as amended, you just voted, 3.2. Those in favor, signify by saying, "Aye." [Response]

Those opposed? [Silence]

Abstain? [No abstentions]

3.2 is adopted.

DELEGATE BLOUNT. I move the adoption of section 3.3, Jurisdiction - Supreme Court.

DELEGATE KAMENY: Second.

PRESIDENT CASSELL: It has been moved and seconded that 3.3 be adopted. Discussion? Delegate Schrag, Delegate

Rothschild, Delegate Mason.

DELEGATE SCHRAG: Mr. President, this is the second of the points that I've gone over with the chair of the committee and Vice President Harris. And this is the point that Delegate Kameny raised last night in the question and answer period. I move to delete the words "to the extent provided by statute" in section 3.3.

DELEGATE BLOUNT: Second.

DELEGATE SCHRAG: Mr. Blount has seconded this motion. The reason for deleting these words is that the committee has inadvertently eliminated the automatic right of litigants to have one appeal from the superior court to the supreme court. The existence of these words means that the legislature could restrict the right of appeal. And by eliminating these words we would guarantee a superior court litigant a right to appeal to the supreme court.

DELEGATE KAMENY: A point of clarification, if I may.

PRESIDENT CASSELL: Yes. First of all, was there a second to that motion?

DELEGATE BLOUNT: Yes.

DELEGATE KAMENY: Just so that I know--there is similar language at other lines as provided by statute in two other places. You are not on the main motion.

DELEGATE SCHRAG: No, I'm not on the main motion.

DELEGATE KAMENY: Just so I know. Thank you.

PRESIDENT CASSELL: It has been moved and seconded on line 13 the phrase "to the extent provided by statute" be deleted. Discussion? Are you ready for the question?

Those in favor of that motion, signify by saying, "Aye." [Response]

Opposed? [Silence]

Those abstained? [No abstentions]

Motion carries.

Delegate Blount.

DELEGATE BLOUNT: I move the adoption of section 3.4, Composition - Superior Court.

DELEGATE THOMAS: Second.

DELEGATE KAMENY: No.

DELEGATE EICHHORN: We have to vote on 3.3.

PRESIDENT CASSELL: Right. We have just amended 3.3. We are back to the original motion to adopt 3.3 as amended, having removed "to the extent provided by statute." Are you ready to vote?

DELEGATE ROTHSCHILD: I'd like to offer something that may be a friendly amendment. Since Delegate Hilda

Mason suggested that supreme be before superior in 3.1, would it be possible to accept the fact that 3.3 be before 3.2, switch them around? In other words, have jurisdiction-supreme court come before jurisdiction-superior court?

DELEGATE BLOUNT: Mr. Chairman, we have already agreed to that. Style and drafting will make those changes.

DELEGATE ROTHSCHILD: Oh, right. Thank you.

PRESIDENT CASSELL: Delegate Mason. Delegate Hilda Mason.

DELEGATE H. MASON: Mr. President, I move to delete in line 11 at the end of the sentence "of the" and "State" at the beginning of the next line. And it would read: The Supreme Court shall have jurisdiction, et cetera.

SEVERAL DELEGATES: Second.

PRESIDENT CASSELL: It has been moved and seconded that "of the" on line 11 be eliminated. So, it would read: The Supreme Court--in fact, it's "of the State" that's to be eliminated. The Supreme Court shall have jurisdiction.

Discussion?

All those in favor of that motion, signify by saying, "Aye." [Response]

Those opposed? [Silence]

Abstained? [No abstentions]

Motion carries.

We're back to the main motion now, 3.3. Those in favor of the main motion, adopting the main motion as amended...

DELEGATE OULAHAN: Mr. Chairman, I think we made a mistake here. I think we've got to get it straightened out.

I think the language has been thrown off. Can I just check with the chairman on this?

PRESIDENT CASSELL: All right, sure.

DELEGATE OULAHAN: Oh, I'm sorry. My mistake. My mistake. I apologize.

PRESIDENT CASSELL: Okay, we're back to 3.3 as amended, two amendments. Those in favor of adopting 3.3 as amended, signify by saying, "Aye." [Response]

Those opposed? [Silence]

Abstain? [No abstentions]

Delegate Blount.

DELEGATE BLOUNT: I move the adoption of section 3.4, Composition - Superior Court.

DELEGATE THOMAS: Second.

PRESIDENT CASSELL: Would you state that again, please.

DELEGATE BLOUNT: I move the adoption of section

3.4, Composition - Superior Court.

PRESIDENT CASSELL: Second?

DELEGATE THOMAS: I seconded it.

PRESIDENT CASSELL: It has been moved and seconded that 3.4 be adopted. Discussion? Delegate Long, Love, Mason, Kameny.

DELEGATE LONG: I have an amendment which I submitted to the secretary last night, and it's in the nature of trying to perfect this--a couple of problems with this. There are two problems. One is that the minimum number of judges--the amendment is on line 4, to substitute the word "forty-three" for "forty-five," and to add after the word "Judges" at the end of the sentence the phrase "as determined by law."

PRESIDENT CASSELL: Again, please.

DELEGATE OULAHAN: Second.

PRESIDENT CASSELL: Again, please.

DELEGATE LONG: What's that?

PRESIDENT CASSELL: Once more, please.

DELEGATE LONG: On line 4, the word "forty-five" should be replaced by the word "forty-three," and at the end of the sentence add the phrase "as determined by law."

Let me explain the reason for this. There's two